

ESTTA Tracking number: **ESTTA561216**

Filing date: **09/25/2013**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Nautica Apparel, Inc.
Granted to Date of previous extension	12/11/2013
Address	40 West 57th Street New York, NY 10019 UNITED STATES

Attorney information	Stephen L. Baker Baker and Rannells PA 575 Route 28 Raritan, NJ 08869 UNITED STATES officeactions@br-tmlaw.com, s.baker@br-tmlaw.com,p.chang@br-tmlaw.com,k.worosila@br-tmlaw.com,k.hna sko@br-tmlaw.com,Margaret_Bizzari@vfc.com Phone:908-722-5640
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Applicant Information

Application No	85883577	Publication date	08/13/2013
Opposition Filing Date	09/25/2013	Opposition Period Ends	12/11/2013
Applicant	MAJESTIQUE CORPORATION Amelia Industrial Park Diana Street Lot 27, Jose Flores Bldg. 2 Guaynabo, 00968 PR		

Goods/Services Affected by Opposition

Class 025. First Use: 2012/06/27 First Use In Commerce: 2012/06/27 All goods and services in the class are opposed, namely: Adult novelty gag clothing item, namely, socks; Athletic apparel, namely, shirts, pants, jackets, footwear, hats and caps, athletic uniforms; Athletic footwear; Belts; Belts for clothing; Bottoms; Clothing shields, namely, pads applied to the underarms of shirts, blouses and sweaters; Footwear; Footwear for men and women; Footwear not for sports; Headbands for clothing; Jackets; Leather belts; Short sets; Ties; Tops; Travel clothing contained in a package comprising reversible jackets, pants, skirts, tops and a belt or scarf; Wearable garments and clothing, namely, shirts; Women's clothing, namely, shirts, dresses, skirts, blouses

Grounds for Opposition

False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	3861194	Application Date	03/08/2007
Registration Date	10/12/2010	Foreign Priority Date	NONE
Word Mark	NONE		
Design Mark			
Description of Mark	The mark is a drawing of two sails.		
Goods/Services	Class 009. First use: First Use: 2009/01/30 First Use In Commerce: 2009/01/30 Swim masks; Swimming goggles; Flotation vests; Life jackets		

U.S. Application/Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	The prepopulated reg. form was not operating correctly. See referenced registrations in the Notice of Opposition.		
Goods/Services	The prepopulated reg. form was not operating correctly. See referenced registrations in the Notice of Opposition.		

Attachments	Notice of Opposition 9-25-2013.pdf(44306 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Stephen L. Baker/
Name	Stephen L. Baker
Date	09/25/2013

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Nautica Apparel, Inc.,

Opp. No. _____

Opposer,

Mark:



v.

Serial No. 85883577

Majestique Corporation

Filed: March 22, 2013

Applicant.

**NOTICE OF OPPOSITION
PURSUANT TO 15 U.S.C. § 1063**

Opposer, Nautica Apparel, Inc., by its attorneys Baker and Rannells, PA, alleges on knowledge as to its own acts and otherwise on information and belief and as grounds for opposition as follows:

1. Opposer believes that allowing Application Serial No. 85883577 to proceed to registration will cause Opposer damage.
2. Opposer, Nautica Apparel, Inc., is a corporation organized and existing under the laws of the State of Delaware, doing business at 40 West 57th Street, New York, NY 10019.
3. Applicant, Majestique Corporation, ("Applicant") is a corporation of Puerto Rico, doing business at Amelia Industrial Park, Diana Street Lot 27, Jose Flores Blg. 2 Guaynabo Puerto Rico 00968.

4. On March 22, 2013, Applicant filed an Application, namely Serial No.















85883577 for the mark (“Applicant’s Mark”), as a trademark for “adult novelty gag clothing item, namely, socks; athletic apparel, namely, shirts, pants, jackets, footwear, hats and caps, athletic uniforms; athletic footwear; belts; belts for clothing; bottoms; clothing shields, namely, pads applied to the underarms of shirts, blouses and sweaters; footwear; footwear for men and women; footwear not for sports; headbands for clothing; jackets; leather belts; short sets; ties; tops; travel clothing contained in a package comprising reversible jackets, pants, skirts, tops and a belt or scarf; wearable garments and clothing, namely, shirts; women's clothing, namely, shirts, dresses, skirts, blouse” in international Class 25 (hereinafter collectively referred to as “Applicant’s Goods”), which was published for opposition in the Official Gazette on August 13, 2013.





5. Opposer is the owner of Copyright Registration No. VA0001339255 for the Nautica Sailing Symbol graphic depicted below:



6. Opposer is also the owner of numerous trademarks in a variety of constantly expanding number of classes for the Nautica Sailing Symbol (“Opposer’s Marks”) as a trademark and service mark. Examples of Opposer’s Marks are as follows:

Mark	Registration No.	Date of Registration	International Class
	3864888	October 19, 2010	28

	3512345	October 7, 2008	12
	3861195	October 12, 2010	25
	3861194	October 12, 2010	9
	2830338	April 6, 2004	6
	2872026	August 10, 2004	16
	2769609	September 30, 2003	24
	2730498	June 24, 2003	20
	2730499	June 24, 2003	24
	2769608	September 30, 2003	27
	2769603	September 30, 2003	14
	2767263	September 23, 2003	9

	2832351	April 13, 2004	3
	2769601	September 30, 2003	18
	2769600	September 30, 2003	25
J-CLASS 1980 1937 	1871390	January 3, 1995	25

Hereinafter the goods and services recited in Opposer's Marks and registrations are referred to collectively as "Opposer's Goods and Services".

8. Opposer's Goods and Services have been widely advertised, offered for sale and sold throughout the United States under Opposer's Marks and Opposer's Marks are famous.

7. Opposer is now and has been for many years trading as and known by Opposer's Marks, identifying Opposer as the source of high quality apparel, fragrance products, watches, accessories and other goods and services.

8. Applicant's Goods are identical or substantially similar to Opposer's Goods and Services.

9. Opposer is now and has been, for many years prior to any date which may be claimed by Applicant, engaged in the use of Opposer's Marks for Opposer's Goods and Services.

10. Opposer is now and has been, for many years prior to any date which may be claimed by Applicant, engaged in the sale of high quality apparel, fragrance products, watches, accessories and other goods and services under Opposer's Marks.

11. Since long prior to any date which may be claimed by Applicant, Opposer on its own behalf has been, and is now engaged in the sale of high quality apparel, fragrance products, watches, accessories and other goods and services under Opposer's Marks in interstate commerce.

12. The use by Opposer of Opposer's Marks for Opposer's Goods and Services alleged herein, is long prior to any date which may be lawfully claimed by Applicant, and Opposer has priority.

13. Applicant intends to distribute and/or to provide Applicant's Goods through the same channels of trade as Opposer and as a result, Applicant is now, or will be, directing its respective goods and services to the same ultimate consumer as Opposer.

14. Opposer's Marks and Applicant's Mark are confusingly similar when applied to the goods of the parties.

15. The goods and services of Applicant and Opposer are identical or substantially similar to Opposer's or within Opposer's ever expanding natural progression of goods and services and channels of trade and Applicant's intended use of Applicant's Mark in connection with such goods and services is without the consent or permission of Opposer.

16. Since Opposer owns Opposer's Marks by virtue of prior use, confusion, mistake or deception as to the source of origin of the goods will arise and will injure and damage the Opposer and its goodwill.

17. As a result of Opposer's long use, extensive advertising and promotion, and successful sales, Opposer's Marks have become distinctive and famous, long prior to any date which may be claimed by Applicant.

18. The registration of Applicant's Mark to Applicant will cause the relevant purchasing public to erroneously assume and thus be confused, misled, or deceived, that Applicant's Goods are made by, licensed by, controlled by, sponsored by, or in some way connected, related or associated with Opposer, in violation of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d), all to Opposer's irreparable damage.

19. The association which would arise from the similarity between Applicant's Mark and Opposer's famous Marks will harm the reputation of Opposer and Opposer's famous Marks thereby resulting in dilution by tarnishment in violation of Section 43(c) of the Lanham Act, 15 U.S.C. §1125(c). There is an overwhelming likelihood that this association will impugn Opposer's Goods and Services and injure its business reputation.

20. The association which would arise from the similarity between Applicant's Mark and Opposer's famous Marks will impair the distinctiveness of Opposer's famous Marks and thereby result in dilution by blurring in violation of Section 43(c) of the Lanham Act, 15 U.S.C. §1125(c). There is an overwhelming likelihood that this association will impugn Opposer's Goods and Services and injure its business reputation.

21. Applicant's Mark falsely suggests a connection with Opposer, and/or will bring Opposer into contempt or disrepute, in violation of §2(a) of the Lanham Act, 15 U.S.C. §1052(a), all to Opposer's irreparable damage.

22. Applicant's use of Applicant's Mark points uniquely and unmistakably to Opposer.

23. Consumers that encounter Applicant's Mark will recognize Applicant's Mark as pointing uniquely and unmistakably to Opposer.

24. Issuance of registration for Applicant's Mark to Applicant would create a false and misleading connection to Opposer all to the irreparable damage of consumers and Opposer.

25. Issuance of registration for Applicant's Mark to Applicant would create a cloud on Opposer's rights to use Opposer's Marks for Opposer's Goods and Services.

WHEREFORE, Opposer prays that the application for registration of Applicant's Mark, Serial No. 85883577 be denied and that this Opposition be sustained.

Dated: September 25, 2013

Respectfully submitted for
Opposer Nautica Apparel, Inc.

By: / Neil B. Friedman /
Stephen L. Baker
Neil B. Friedman
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of Opposer's Notice of Opposition was forwarded by first class postage prepaid mail by depositing the same with the U.S. Postal Service on this September 25, 2013 to Applicant's attorney at the following address:

Gino Negretti, Esq.
Gino Negretti Law Offices
670 Ponce De Leon Ave.
Caribbean Towers, Ste. 17,
San Juan, Puerto Rico 00907-3207

/Neil B. Friedman/
Neil B. Friedman